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9 Attorneys for Plaintiff  
10 SCOTT SERIO

11  
12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
14 **(SAN FRANCISCO DIVISION)**

15 SCOTT SERIO,

16 Plaintiff,

17 v.

18 FAN FAIR INC. d/b/a MARIN COUNTY SPORTS,

19 Defendant.

Case No.: 3:16-cv-00438-JSC

**DECLARATION OF SCOTT SERIO IN  
SUPPORT OF MOTION FOR  
DEFAULT JUDGMENT AGAINST  
DEFENDANT FAN FAIR INC. D/B/A  
MARIN COUNTY SPORTS**

Date: September 1, 2016

Time: 9:00 a.m.

Courtroom: F, 15<sup>th</sup> Floor

Magistrate Judge: Jacqueline S. Corley

Complaint Filed: January 25, 2016

1 I, Scott Serio, declare:

2 1. The following is of my own personal knowledge, and if called as a witness in this  
3 matter, I could and would competently testify thereto.

4 2. I am a professional photographer in Maryland, and through my business Eclipse  
5 Sportswire, I create and license photographic images, and provide editorial photographic coverage.  
6 My photography is focused on sporting events, athletes and those involved in the sports industries,  
7 and I have a particular professional focus on horse racing.

8 3. Among my many horse racing photographs is an image of the all-time great  
9 thoroughbred racehorse American Pharaoh taken in May 2015 (the "Copyrighted Work"). In 2015,  
10 American Pharaoh became the first Triple Crown winning horse since 1978, winning the Kentucky  
11 Derby, Preakness Stakes, and Belmont Stakes. He also won the Breeder's Cup later that year,  
12 becoming the first horse ever to win all four major races. As a result of these accomplishments,  
13 photos of American Pharaoh have been very popular and in high demand.

14 4. I am the exclusive owner of the copyrights in and to the Copyrighted Work. Effective  
15 as of July 2, 2015, I obtained a registration with the United States Copyright Office for a collection  
16 of photographic images entitled, "Group Registration Photos Scott Serio American Pharaoh 2015,  
17 Published May 03, 2015 to June 20, 2015; 194 photos," which included the Copyrighted Work.  
18 Attached as Exhibit B to the Amended Complaint filed by me in this action is a copy of the  
19 certificate of registration with the Copyright Office, identified as Registration Number VA 1-974-  
20 674.

21 5. I own all rights, title, and interest, including copyrights, in and to the Copyrighted  
22 Work.

23 6. The typical range of fees I receive for licensing the right to sell copies of my  
24 copyrighted works for popular sporting events or figures is \$700. However, because of the  
25 significance of American Pharaoh's achievements in 2015 and the quality of the photograph, my  
26 license fee for that photograph would be approximately \$2000.

27 7. Typically, my photographs are produced on assignment for various sports journals, or  
28 newspapers. A significant portion of the revenue I generate from my photography work also comes

1 from licensing photos for secondary uses, such as the use made by defendant in this case – the  
2 creation of prints to sell to collectors. The ability of someone like the defendant here to sell copies  
3 of the Copyrighted Work without compensation to me greatly impairs the market value of the  
4 Copyrighted Work, such that I can no longer give an exclusive license for the photo as a print.  
5 Potential licensees of the Copyrighted Work cannot effectively compete with someone like  
6 defendant who pays nothing for the work and sells it, with no overhead cost, on eBay.

7 8. The Copyrighted Work was a prized part of my portfolio, but because of the  
8 defendant's infringement, its monetary value to me has been greatly diminished.

9 I declare under penalty of perjury under the laws of the United States that the foregoing is  
10 true and correct. Executed this 27th day of July, 2016, at Colorado, Maryland.

11  
12 By:   
13 Scott Serio